

Religious Societies

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John Norton Loughborough

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BEING instructed by the Michigan State Conference, at its session of May 22, 1868, to prepare a pamphlet for the churches in Michigan and Indiana, setting forth the necessary legal steps to be taken in securing meeting-house property, with an abstract of the laws relating to wills, etc., I have complied with said instruction and offer the following as the result. I will first introduce those sections of the law which have a bearing upon the subject, and shall in subsequent portions of the pamphlet merely refer to those parts of the law which are applicable to the case in hand.

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Abstract of the Laws of Michigan Relative to the Organization and Control of Religious Societies

SEC. 1. The people of the State of Michigan enact, That section two of an act entitled, "An act concerning churches and religious societies, establishing uniform rules for the acquisition, tenure, control, and disposition of property conveyed or dedicated for religious purposes, and to repeal chapter fifty-two of the revised statutes," approved February thirteenth, eighteen hundred and fifty-five, be and the same is hereby amended so as to read as follows:*RESO 1.1*

SEC. 2. It shall be lawful for any number of persons of full age, not less than five, who may be desirous of forming themselves into a church, congregation, or religious society, and who shall sign articles of association for that purpose, to assemble together at such place as they may select, and by a plurality of votes by ballot, elect any number of discreet persons, being *laymen*, not less than three nor more than nine in number, as trustees, to take charge of the property belonging to, and transact all the affairs relative to the temporalities of such church, congregation, or religious society. At any time after such society shall have become duly organized, it shall be lawful for any such church, congregation, or religious society, at a meeting thereof, called in accordance with the provisions of this act, by a vote of two-thirds of the members of such society entitled to vote, present at any such meeting, to amend its articles of association in any manner not inconsistent with the provisions of this act, and such amendments shall become operative on filing a copy of the same, certified by the moderator, chairman, or president, and clerk, of such meeting, with the clerk of the county where such society is organized. (*Extra session of 1862.*)*RESO 1.2*

SEC. 3. It shall be lawful for any such church, congregation, or religious society, to choose their minister, priest, curate, rector, parson, or officiating clergyman, for the time being, to be the president of said corporation and of their meetings, by a vote as aforesaid; and at the first election provided for in this act, every person who shall have signed the articles, and at any subsequent elections every person of full age, who has for six months been a

stated worshiper with, or a contributor regularly for one year previous to the support of such church, congregation, or society, shall be entitled to vote.*RESO 2.1*

SEC. 4. The minister, priest, rector, curate, parson, or officiating clergyman of such congregation or society, or if none of them be present, one of the elders, or deacons, church-wardens, or vestrymen thereof, and for want of such officers, any other person being a member or stated hearer in such church, congregation, or society, shall publicly notify said congregation of the time when, or the place where any election shall be held, at least fifteen days before the day of such election, and such notification shall be given for two successive Sabbaths on which such church, congregation, or society shall statedly meet for public worship, next preceding the election.*RESO 2.2*

SEC. 5. Any two of the elders, deacons, church-wardens, or vestrymen of such church, congregation, or society, or if such officers shall not be present, then any two voters present, to be nominated by a majority of the voters, shall be inspectors of such election, receive the votes and determine the qualification of voters; and they shall immediately after the election certify, under their hands and seals, the names of persons elected to serve as trustees or vestrymen; in which certificate the name by which the said trustees or vestrymen and their successors in office shall forever thereafter be known and called, shall be particularly mentioned and specified, and such trustees may in said certificate be denominated vestrymen, or church-wardens and vestrymen, executive committee, or any other name stated in the certificate: *Provided always*, That they shall have all the power specified in this act, and be elected in the manner provided for in this act.*RESO 3.1*

SEC. 6. Such certificate shall be acknowledged by the person making the same, as proved by a subscribing witness thereto, before some officer authorized to take acknowledgment of the deeds: and said certificate, with certificate of acknowledgment or proof thereof, and the articles of association, shall be received by the clerk of the county within which the church or place of worship of such congregation shall be situated, in a book to be by him provided for that purpose, who shall be entitled to ten cents for each

folio for recording the same; and thereafter such trustees, and their successors shall be a body corporate, by the name expressed in such certificate. (*Session laws of 1861.*)*RESO 3.2*

SEC. 7. Such trustees may have a common seal, and may alter the same at pleasure; and they may take into their possession and custody all the temporalities of such church, congregation, or society, whether the same shall consist of real or personal estate, and whether the same may have been given, granted, or devised directly or indirectly to such church, congregation or society, or to any other person or persons for their use.*RESO 3.3*

SEC. 8. Such trustees may also in their corporate name, sue and be sued in all courts and places; and they may recover and hold all the debts, demands, rights, and privileges, all churches, buildings, burying-places, and all the estate and appurtenances belonging to such church, congregation, or society, in whatsoever manner the same may have been acquired, or in whose hands soever the same may be held, as fully and amply as if the right and title thereto had been originally vested in said trustees; and they may hold moneys or personal estate, raised or acquired for the purpose of erecting churches, or houses of residence for their minister or priest, or for the purchase of burial-ground, for a period not exceeding one year before investment thereof, and not exceeding the value or amount of twenty thousand dollars; and they may hold for a period not exceeding three years any land which may be lawfully conveyed to them not exceeding five thousand dollars in value, to be sold for the purpose of raising a fund for erecting, repairing, or improving a church or churches, or other building afore said, or for the purchase or improvement of any cemetery or burial-ground. But all such lands shall revert to the donor or grantor, his or her heirs or assigns, if not disposed of within the time aforesaid.*RESO 4.1*

SEC. 9. The said trustees, or wardens and vestrymen shall also have authority under the direction of the society or congregation to erect churches and meeting-houses, dwellings for their ministers or their priests, or other buildings for the direct and legitimate use of their church, congregation, or society, to alter and repair the same, but for no secular purpose; and also under the direction of the society or congregation, to give, execute, or acknowledge, in their

official capacity, any obligations and securities upon the property of such church, congregation, or society, for the payment of just liabilities which have been, or may hereafter be, created in the erection or repair of such church, meeting-house, or other building. (*Session laws of 1861.*)*RESO 4.2*

SEC. 10. They shall also have authority to make rules and orders for managing the temporal affairs of such church, congregation, or society, and to dispose of all moneys belonging thereto, and to order and regulate the renting of pews or slips in their meeting-houses and churches, and the perquisites for the breaking of the ground and burial of the dead in the cemetery or churchyard, and in the said churches or meeting-houses.*RESO 5.1*

SEC. 11. They may appoint a clerk and a treasurer of their board and a collector to collect their rents and revenues, and may regulate the fees to be allowed such clerk, treasurer, and collector, and may remove them and appoint others in their stead at pleasure; and such clerk shall enter all rules and orders made by such trustees, and payments ordered by them, in a book to be procured by them for that purpose.*RESO 5.2*

SEC. 12. Any two of the trustees may at any time call a meeting of the trustees, and a majority of them, being lawfully convened, shall be competent to do and perform all matters and things which such trustees are authorized to do and perform; and said trustees may elect the minister, priest, curate, rector, person, or officiating clergyman of said society, for the time being to preside at such meetings, who shall have no vote except in case of a tie of the board, when he shall have a casting vote.*RESO 5.3*

SEC. 13. The said trustees shall hold their offices, for three years; and immediately after their first election, as hereinbefore provided, the said trustees shall be divided by lot into three classes, numbered, one, two, and three; and the seats of the first class shall be vacated at the end of the first year, of the second at the end of the second year, and of the third class at the end of the third year, to the end that as near as may be, one-third part of the whole number of the trustees may be annually chosen.*RESO 5.4*

SEC. 14. It shall be the duty of the clerk of the said trustees, at least

one month before the expiration of the office of any of said trustees, to notify the same in writing to the minister, priest, curate, rector, parson, or officiating clergyman, or in case of his death or absence, to the elders or church-wardens, or if there be no elders or church-wardens, then to the deacons or vestrymen of any such church, congregation, or society, specifying in such notice the names of the trustees whose office will expire; and the minister, priest, curate, rector, person, or other officer receiving such notice shall in manner aforesaid, notify the members of said church, congregation, or society, of such vacancies, and appoint the time and place for the election to supply the same,*RESO 5.5*

SEC. 15. Such elections shall be held at least six days before vacancies shall occur as aforesaid; and all such subsequent elections shall be held and conducted by the like persons and in the same manner as hereinbefore provided for the first election; and in case any vacancy shall occur by the death of a trustee, his refusal to act, or removal from the society before his term of office expires, or otherwise, notice thereof shall be given as aforesaid and an election shall be held, and another trustee chosen in his stead for the remainder of his term.*RESO 6.1*

SEC. 16. No person belonging to any such church, congregation, or society, incorporated under the provisions of this act, shall be entitled to vote at any election after the first until he shall have been an attendant on public worship in such church, congregation, or society, at least six months next before such election, and shall have contributed to the support of such church, congregation, or society, according to the usages and customs thereof.*RESO 6.2*

SEC. 17. The clerk of the trustees shall keep a register of the names of all such persons as shall desire to become stated hearers in the said church, congregation, or society and shall therein note the time when such request was made; and the said clerk shall attend all subsequent elections, in order to test the qualification of such voters if in any case they shall be questioned.*RESO 6.3*

SEC. 18. Nothing in this act contained shall be construed to give such trustees the power to fix or ascertain the salary, or compensation to be paid, any minister or priest, curate, rector, or

parson, but the same shall be ascertained and fixed by a majority of such society, entitled to vote at the election of trustees.*RESO 6.4*

SEC. 19. It shall be lawful for the circuit court for the county in which any such religious corporation shall have been constituted, on the application of such corporation, if such court shall deem it proper, to make an order for the sale of any real estate belonging to such corporation, and to direct the application of the moneys arising therefrom, to such uses as the said corporation, with the approbation of said court, shall conceive to be for the interest of such corporation: *Provided*, That no such sale shall be authorized by the court in any case where it would be inconsistent with the express terms or plain intent of the grant, donation, conveyance, or devise by which the same was conveyed or devised to or for the use of such church, congregation, or society, prior to the passage of this act.*RESO 7.1*

SEC. 20. At least thirty days' previous notice of any such application to the circuit court shall be given, by publishing the same in some newspaper published in the country, if one be there published, if not, by posting up notices in three or more public places in said county.*RESO 7.2*

SEC. 21. Provides that trustees may hold land, etc., in trust as trustees.*RESO 7.3*

Law of Indiana Relative to Holding Church Property

First. The members of the church shall elect three or more, not over nine, trustees, and the trustees so elected shall take count of, and make a full report of, said election within ten days of said election, and file a copy of it in the recorder's office of the proper county, with the name of the church.*RESO 7.4*

Second. The church shall have power then to pass such by-laws as they may deem necessary for the further prosecution of the design and receive by purchase or donation any amount of land not exceeding one hundred acres, and not worth over five thousand dollars, and when such deed is made it shall be recorded in the recorder's office of said county.*RESO 7.5*

Organization and Regulation of Legal Societies

THE mode of organizing a legal society to control church property under the provisions of the law of Michigan, is as follows:—*RESO 8.1*

First, Let the male members of your church and congregation, of full age, who desire to form such society, sign the following articles; —*RESO 8.2*

In pursuance of an act of the Legislature of the State of Michigan, entitled, “An act concerning churches or religious societies, establishing uniform rules for the acquisition, tenure, control, and disposition of property conveyed or dedicated for religious purposes, and to repeal chapter fifty-two of the revised statutes, approved February thirteenth, eighteen hundred and fifty-five.”*RESO 8.3*

We, the undersigned, being desirous of forming ourselves into a religious society, do hereby agree to be bound by the following articles of association:*RESO 8.4*

**ARTICLES OF ASSOCIATION OF THE SOCIETY OF
THE SEVENTH-DAY ADVENTISTS OF -----,
MICHIGAN**

ARTICLE I

This society shall be called the society of the Seventh-day
Adventists.*RESO 8.5*

ARTICLE II

This society shall be located in the----of----in the State of Michigan.*RESO 8.6*

ARTICLE III

The object of this society shall be to legally hold the house of worship and land belonging thereto, a dwelling house for their minister, and such other buildings as may be necessary for the direct and legitimate use of the society, and to manage the temporal affairs of the Seventh-day Adventists of ----; and it shall not hold any other property; *except* grants, as hereinafter provided, nor transact other business aside from the temporalities of the society.*RESO 8.7*

ARTICLE IV

The officers of this society shall consist of three trustees, a clerk, and treasurer, to be appointed by them of their number. The trustees shall be elected for three years, except those first elected, who shall be divided into three classes, and shall hold their offices for one, two, and three years, respectively, one being elected each year to fill the vacancy of the one passing from office.*RESO 9.1*

ARTICLE V

At least fifteen days' notice shall be given to the congregation of the time when, and the place where, any election shall be held, and such notice shall be given in the manner that is, or may be provided by law. All regular elections shall be held at least six days before the term of office expires, and in case of a vacancy by death or any other cause, a special election may be held, by notice thereof being given as aforesaid.*RESO 9.2*

ARTICLE VI

All property that may be given, granted, conveyed, or devised to this society, whether personal or real estate, except the house of worship; and land belonging thereto, the dwelling-house for their minister, and, such other buildings as may be necessary for the direct and legitimate use of the church as before provided, shall be sold by the trustees, and the proceeds thereof applied to the religious and benevolent purposes of the society.*RESO 9.3*

This society may erect, alter, or improve, a church, building, a house for their minister, and other buildings for the direct and legitimate use of the society, by a vote of two thirds of the members, and dispose of the buildings and erect others, as the wants of the congregation may require, and shall have power to execute securities for church debts, upon church property, as provided by law.*RESO 10.1*

ARTICLE VIII

After the first election, such persons shall be entitled to vote as shall have subscribed to these articles at least six months before the annual election, and shall have been stated worshipers with this society at their house of worship for the same period of six months, or shall have contributed to the support of the society according to its usages for one year.*RESO 10.2*

When these articles are drawn up, and signed, let the elder, deacon, or, if not present, any male member, read a notice, like the following:*RESO 10.3*

NOTICE

Being desirous of forming ourselves into a religious society to be known as the society of Seventh-day Adventists of ----, to legally hold and manage our church property, an election will be held at ----, on the ---- day of ----, in the year 18—, for the purpose of electing three persons to serve as trustees of said society.*RESO 10.4*

-----,

*Elder, Deacon, or Member*¹EXPLANATION.

OFFICERS of the church, such as local elders, deacons, and clerk, can be trustees. Hence the following statement on page eleven of "Religious Societies," is not correct:

"The President must caution the voters not to write the name of any officer of the church on their ballots, for the law says the trustees shall be *laymen*."

The above-named officers are *laymen*. A local elder, a deacon, or clerk, cannot be a trustee by his name of office-see page 14-but they may be appointed trustees, through whom, as trustees, the legally organized society can hold property.

Hence, strike out the lines on page eleven, quoted above, and this book is all right. (as the case may be).

Such notice must be given at least fifteen days before the day of election, and must be read in two Sabbath meetings, and those two Sabbaths must be the last two on which you have meeting before the day of election. See sec.4.*RESO 10.5*

When you come together to hold your first election, you will organize your meeting by choosing your elder as president. This may be done by some one moving that the elder act as president, and then vote upon it by voice or uplifted hand as you choose. The next step will be to elect a clerk for the time being, who may be nominated and elected in the same manner as the president. Your next step will be to select two inspectors of the election. If there are two deacons of the church present, they are lawful inspectors without any vote for them. If there is one deacon present he is an inspector, and the second is to be chosen by circulating blank ballots and letting all who have signed the articles write upon the ballots the name of the person they wish to act as inspector. The

one getting the greatest number of ballots is the other inspector. If there is no deacon present, both inspectors shall be elected as above.*RESO 10.6*

The president shall then announce that the inspectors are to pass blank ballots on which he wishes you to write the names of three male subscribers to the articles, to serve as trustees, the three names to be written at one balloting. The president must caution the voters not to write the name of any officer of the church on their ballots for the law says the trustees shall be *laymen*. The inspectors shall take up the ballots and examine and report to the president, who shall declare the vote. The three persons receiving the highest number of votes are the three trustees. The trustees shall then draw cuts from the hand of the president, to decide who shall serve one, who two, and who three years.*RESO 11.1*

When they are thus divided, the president, clerk, and inspectors should make a writing like the following:*RESO 11.2*

At a meeting of persons who had signed Articles of Association for the purpose of forming a religious society, to be known as the society of Seventh-day Adventists of ---, Michigan, notified according to the provisions of the statutes of the State of Michigan, held at ---, on the --- day of ---, 18—, ----- was by a plurality of votes, chosen president, and -----, clerk. Whereupon, ----- and -----, deacons, acted as inspectors of election for the election of trustees for said society, who make the following certificate. In case two laymen are chosen as inspectors, or one layman to act with one deacon, let it read, Whereupon,-----, layman, was nominated by a plurality of votes by ballot to act with the deacon,----, as inspectors of election, etc., or if two laymen, let both their names be mentioned as nominated for inspectors.*RESO 11.3*

-----, *President,*

-----, *Clerk.*

INSPECTORS' CERTIFICATE

At the meeting above specified, by a plurality of votes by ballot, ----, -----, and -----, were chosen as trustees of the society of Seventh-day Adventists of ----, Michigan, and immediately thereafter divided into three classes, as follows, ----- to hold his office for one year, ----- for two years, and ----- for three years.*RESO 12.1*

In witness whereof we have hereunto set our hands and seals, this ---- day of ----, in the year of our Lord one thousand eight hundred and ---.*RESO 12.2*

Inspectors (.... [L. S.]
(.... [L. S.]

The inspectors shall then go to some justice of the peace, or notary public, and make acknowledgment of the certificate, and have his certificate of acknowledgment on the back which may read like the following:*RESO 12.3*

State Michigan,) S.S.

County of.....,)

On this ---- day of ----, A. D. 18—, before me, a ----, in and for the said County, personally appeared ----- and -----, to me personally known to be the persons described in and who executed the foregoing certificate, and each acknowledged to me that he executed the same freely. -----, ----- for ----, County, Michigan.*RESO 12.4*

Then the articles of association and the above certificate should be filed for record in the County Clerk's office, and from the time or such filing, you are a body corporate, empowered to receive and hold the property of the church.*RESO 13.1*

On being notified of their election, the trustees shall choose one of their number as clerk, who shall fulfill his office as set forth in sections 11, 14, and 17. They shall also choose one of their number as a treasurer to pay out funds by order of the board of trustees

(sec.11).*RESO 13.2*

The notice for any election after the first is provided for in section 14 and 15.*RESO 13.3*

Such elections will be conducted in the same manner as the first, with the exception of choosing a clerk, for the clerk of trustees is a clerk of the meetings for election. See sections 15, 3, 5, 17. No certificate is made of any election after the first, but a record is made of the proceedings and election of trustees, on the society's books (not the church book). See section 11.*RESO 13.4*

FORM OF CLERK'S NOTICE, SEE SECS. 14, 15

——, *Michigan* ——, 18——,

To ——, Elder in charge of the society of the Seventh-day Adventists of ——.

You are hereby notified that the expiration of the term of office of ——, one of the trustees of this society, will terminate on the —— day of —— next.*RESO 13.5*

This notice is thus given in order that you may notify your congregation publicly of the time when and the place where an election will be held to fill the vacancy, said notice to be read for two successive Sabbaths, last before such election, and be given at least fifteen days before such election, and such election must be held six days before the expiration of the said term of office.*RESO 13.6*

——, *Clerk of Trustees*.

The person receiving this notice shall read to the congregation a written notice as required by law, (see sections 14, 4.) as follows:*RESO 13.7*

NOTICE

An election will be held at —, on the — day of —, at — o'clock, — (A. M., or P. M., as the case may be), for the purpose of electing a trustee to fill the vacancy occasioned by this expiration of the term of office of —, which term expires on the — day — next.*RESO 14.1*

—, *Elder*.
—, —, 18—.

Law of Michigan Respecting Wills to Religious Societies

Sections 22, 23, provides that *no officer* of a church can hold property as a trustee, and that every gift, grant, devise, bequest, conveyance, or lease, of any real estate, etc., made to such officer by his name of office shall be void to all intents and purposes.*RESO 14.2*

SEC. 24. Every devise, gift, or bequest of real estate, or any interest therein, or money or other property to be invested therein, or to arise from the proceeds thereof, or of any benefit, use, or trust to be connected therewith, hereafter made or attempted to be made by last will or testament shall be void, so far as such devise, gifts, or bequests, shall be or purport to be made, directly or indirectly, to or for the use of any church, congregation, religious order, or religious society, or to or for the use of any ecclesiastical, educational, or eleemosynary institution connected or to be connected with, or under the control or direction of any such church, congregation, order, or society, or under the control or direction, or subject to the visitatorial power of any officer or officers, or other authority of such church, congregation, order, or society, in his, her, or their official or ecclesiastical capacity, unless such will shall have been duly executed, and shall have remained for at least two months prior to the death of the testator without alteration or codicil, on file with the judge of probate of the county in which the testator may reside; and no donation or gift, or other transfer, by deed, lease, or other form of conveyance, not testamentary, without valuable or pecuniary consideration to a reasonable amount, of any lands or real estate, or any interest therein, or moneys to arise therefrom, or to be invested therein, hereafter made or attempted to be made to or for the use of either or any of the parties, for any or either of the purposes in this section above mentioned, shall be valid for any purpose whatever, unless such deed or other conveyance shall have been duly executed and acknowledged, and recorded in the office of the Register of Deeds for the proper county, for at least two months prior to the death of the grantor or donor.*RESO 14.3*

SEC. 25. Every gift, bequest, legacy, or donation, of any money or personal property to the amount of one hundred dollars or more,

hereafter made by last will or testament, to or for the use of any or either of the parties, or for any or either purposes mentioned in the last preceding section, shall be utterly void unless such last will or testament shall be executed at the time it bears date, in the presence of and attested by three subscribing witnesses; and unless the person executing the same shall also declare to said witnesses at the time of the execution thereof, that the whole of said will or testament has been read to or by him or her, and that he or she knows and fully understands the contents thereof.-*Laws of 1861.RESO 15.1*

SEC. 26. No grant, conveyance, devise, or lease of any real estate, dedicated or appropriated to the purposes of religious worship, or for any religious or ecclesiastical purposes or appearing to be intended to be managed or controlled by any congregation or society, or any officer or officers thereof, in his or their official capacity, shall hereafter vest any right, title or interest in any person or persons to whom such grant, conveyance, devise, or lease may be made, unless the same shall be made to a corporation organized under some statute of this State, or of the late Territory of Michigan, or under the provisions of this act, or some act hereafter passed, amending or altering the same.*RESO 15.2*

LEGACIES

THOSE who wish to will a portion of their property to the Seventh-day Adventists Publishing Association, can insert in their will the following:*RESO 15.3*

FORM OF A BEQUEST

I bequeath to my executor (or executors) the sum of---dollars in trust, to pay the same in---days after my decease, to the person who, when the same is payable, shall act as treasurer of the Seventh-day Adventist Publishing Association, Battle Creek, Michigan, to be applied under the direction of the trustee of that Association, to its charitable uses and purposes.*RESO 15.4*

The will should be attested by three witnesses (in some States three are required, in other States only two), who should write against their names their places of residence (if in cities, the street and number). The following form of attestation will answer for every state in the Union:*RESO 15.5*

Signed, sealed, published, and declared by the said -----, as his last will and testament, in the presence of us, who at the request of the said -----, and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.*RESO 15.6*

As Laws respecting wills are not the same in all States, those designing to will property to the Seventh-day Adventist Publishing Association, will do well to obtain the best legal counsel in reference to the matter, before executing the same.*RESO 15.7*

Respectfully submitted, in behalf of the Michigan and Northern Indiana Conference.*RESO 15.8*

J. N. L.

